Uruguay – Investment Climate
(Updated May 2008)

U.S. Embassy in Montevideo

Openness to Foreign Investment Return to top

The Government of Uruguay recognizes the important role foreign investment plays in economic development and tries to maintain a favorable investment climate. Aside from a couple of sectors in which foreign investment is not permitted, there is neither de jure nor de facto discrimination toward investment by source or origin, and national and foreign investors are treated equally.

In 1998, the Uruguayan Government (GOU) approved a law (no. 16906) that declares that promotion and protection of national and foreign investment is in the national interest. The law states that (1) foreign and national investments are treated alike, (2) investments are allowed without prior authorization or registration ,(3) the government does not prevent the establishment of investments in the country, and (4) investors may freely transfer abroad their capital and profits from the investment.

The left-of-center administration, which took office in March 2005, has stressed the importance of local and foreign investment for social and economic development. A strong economic team has been implementing an orthodox macroeconomic policy, with the ambitious goal of doubling Uruguay's investment/GDP ratio over the next five years, by attracting direct foreign investment, developing the local capital market and improving existing legislation on investment. The administration has sent positive signals to investors and is doing its utmost to promote foreign investment. Uruguay has been involved in a dispute with Argentina over the construction of pulp mills on a shared river.

In November 2007, the GOU regulated some aspects of the 1998 investment law with Decree 414/07, which provided new incentives to a broader base of firms and listed the GOU´s criteria for granting incentives. The decree also streamlined procedures for firms requesting tax exemptions and established a single-window mechanism to channel investment requests and guide investors.

However, a law passed in January 2007 (Law 18,092) requiring that corporations that purchase land use registered shares held by individuals –instead of bearer shares– has caused some foreign investors to put planned investments on hold. In 2007, the GOU exempted some large foreign firms from this requirement. The government has also passed labor legislation, which, in the view of most business chambers, overly protects workers' rights and has led to some widely publicized labor conflicts with occupation of workplaces.

In general, the GOU does not require that firms receive specific authorization to set up operations, import and export, effect deposits and banking transactions in any currency, or obtain credit. Screening mechanisms do not apply to foreign or national investments, and special government authorization is not needed for access to capital markets or to foreign exchange. In privatization and concession programs, foreign investors are treated as nationals and are allowed to participate in any stage of the process. Bidders on tenders have to be prepared for a lengthy adjudication process.

Uruguay has a history of maintaining state monopolies in a number of areas in which direct foreign equity participation is prohibited by law. While privatization is widely opposed by the population, some progress has been achieved over the past decades in dismantling government-run monopolies and increasing private sector participation in the economy. Several state-owned entities have contracted with foreign-owned companies to provide specific services for a given period of time under Build-Operate-Transfer (BOT) regimes. While basic telephone services remain a monopoly, government-owned ANCEL, SPAIN's Telefonica, and Mexico's America Movil provide cellular services. International long distance, the installation and maintenance of public telephones, data transmission, and some value-added services are also open to the private sector. Although the Telecommunication and Postal Services regulatory agency, URSEC, aims to preserve a level playing field for private and public firms, it sometimes lacks the strength to enforce regulations on government-owned ANTEL.

Other sectors demonstrate varying levels of privatization. For instance, although private power generation is now allowed, the state-owned power company, UTE, still holds a monopoly on wheeling rights. The state-owned oil company, ANCAP, remains the only importer and refiner of petroleum products. The government has been planning to associate ANCAP with foreign partners, and negotiations are underway with Brazil's Petrobras and Venezuela's PDVSA. Ports are widely privatized, with private companies providing most services since 1992. In 2007, the GOU sold 75% of its airline PLUNA to a consortium of U.S. investors. The insurance and mortgage sectors were de-monopolized in 1996, but workers compensation insurance remains a government monopoly. While there was some private sector provision of water and sewage services in resort areas, an October 2004 constitutional amendment, approved by 64% of voters, declared water a national resource to be controlled exclusively by the State. The state-owned rail company AFE is in the process of selecting a private operator for its cargo railway system.

The World Bank's 2008 "Doing Business" Index, which ranks 178 countries according to the ease of doing business in each one of them, ranks Uruguay 98th globally and 18th within the Latin American & Caribbean region (31 countries). Uruguay gets high scores in the categories "getting a credit" and "closing a business", and low scores in "starting a business", “registering property”, “dealing with licenses” and “paying taxes”.

Although U.S. firms have not encountered major obstacles in Uruguay's investment climate, some have been frustrated by the length of time it takes to complete bureaucratic procedures and tenders, and by numerous changes in tax codes and regulations since 2001.

Uruguay and the United States signed an Open Skies Agreement in late 2004 (ratified in May 2006), a Bilateral Investment Treaty in November 2005 (entered into force on November 1, 2006), and a Trade and Investment Framework Agreement in January 2007.

There are no restrictions on technology transfer. One hundred percent foreign ownership is permitted, except where restricted for national security purposes.

Conversion and Transfer Policies

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Uruguay maintains a long tradition of not restricting the purchase of foreign currency or the remittance of profits abroad, even during the 2002 banking and financial crisis. Foreign exchange can be freely obtained at market rates.

Expropriation and Compensation

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In the event of expropriation, the Uruguayan Constitution provides for the prompt payment of "fair" compensation.

Following the constitutional amendment on water services, the GOU took over the operations of URAGUA, the Spanish water company that had operated locally from 2000 through 2005. The GOU and URAGUA reached an agreement on a compensation package and renounced any legal actions.

Dispute Settlement

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The investor may choose between arbitration and the judicial system to settle disputes. Uruguay is a member of the International Center for the Settlement of Investment Disputes since September 2000. Uruguay's legal system is based on a civil law system derived from the Napoleonic Code, and the government does not interfere in the court system. Corruption is not a major problem and the Judiciary is independent, albeit sometimes slow.

Performance Requirements and Incentives

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Current investment law treats local and foreign investors equally and does not provide preferential tax deferrals, grants, or special access to credit for foreign investors. Consequently, foreign investors are not required to meet any specific performance requirements. Furthermore, foreign investors are not inhibited by discriminatory or excessively onerous visa, residence, or work permit requirements. The government does not require that nationals own shares or that the share of foreign equity be reduced over time. Moreover, technology can be freely transferred and the government does not impose conditions on invest permits.

For some activities, the government has established asset, value-added and internal tax benefits as well as tariff reductions. Investments in hotels and software receive additional incentives. The government provides preferential treatment for capital good imports and tax deferrals for exports. The legislation enables the government to cut social security payments to certain activities, and ties incentives to specific criteria such as job creation, export diversification, technology incorporation and geographical de-centralization. In December 2005, the government provided significant tax incentives to the installation of industrial parks in the interior of the country.

A government decree establishes that government tenders will favor local products or services, provided they are of equal quality and not more than 10% more expensive than foreign goods or services. U.S. and other foreign firms are able to participate in government-financed or subsidized research and development programs on a national treatment basis.

Right to Private Ownership and Establishment

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Private ownership does not restrict a firm or business from engaging in any form of remunerative activity, except in two areas -- national security interest, and legal government monopolies (see Openness to Foreign Investment).

Protection of Property Rights

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Secured interests in property and contracts are recognized and enforced. Mortgages exist, and there is a recognized and reliable system of recording such securities. Uruguay's legal system protects the acquisition and disposition of all property, including land, buildings, and mortgages. Nevertheless, execution of guarantees is usually a slow process.

In the recent past, there have been several attempts to legislate in order to alleviate the payment burden of Uruguayan dollar debtors adversely affected by the peso's 2002 devaluation, as well as debtors in the agricultural sector. Several of the proposals would have forced banks to re-negotiate the terms of their loans. The past and the current administration opposed the initiatives, however, and succeeded in negotiating an "administrative solution" with all parties.

-- Protection of Intellectual Property Rights: Uruguay is a member of the World Intellectual Property Organization (WIPO), and a party to the Bern and Universal Copyright Conventions, and the Paris Convention for the Protection of Industrial Property. In 2003, coordinating closely with U.S. and international IPR organizations, Uruguay passed new TRIPS-compliant copyright legislation. In 1998 and 1999, Uruguay also passed trademark and patent legislation. In 2006, USTR removed Uruguay from the Special 301 Watch List due to progress in IPR, especially with respect to copyright enforcement. The USTR statement commended the “positive progress” and was “encouraged that Uruguay has set a positive example by its efforts to combat piracy and counterfeiting.”

-- Copyrights: The 2003 copyright law represented a significant improvement over the 1937 law and led the United States Trade Representative (USTR) to upgrade Uruguay from the "Priority Watch List" to the "Watch List." Uruguay signed the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) in 1997. Parliament ratified the WCT in August 2005, but WPPT was filed in February.

-- Patents: Patents are protected by Law No.17164 of September 2, 1999. Invention patents have a twenty-year term of protection from the date of filing. Patents for utility models and industrial designs have a ten-year term of protection from the filing date and may be extended for and additional five. The law provides a lax definition of compulsory licensing and vaguely defines compensation as "adequate remuneration" to be paid to the patent-holder. Some U.S. industry groups believe that the law's compulsory licensing requirements are not TRIPS consistent. On average, filing a medical patent takes two years longer than in the United States.

-- Trademarks: The GOU approved a trademark law on September 25, 1998 upgrading trademark legislation to TRIPS standards. Under this law, a registered trademark lasts ten years and can be renewed as many times as desired. It provides prison penalties of six months to three years for violators, and requires proof of a legal commercial connection to register a foreign trademark. Enforcement of trademark rights is adequate and has improved in recent years as a result of an intense anti- smuggling campaign.

Transparency of Regulatory System Return to top

Transparent and streamlined procedures regulate foreign investment. However, long delays and repeated appeals can significantly delay the process to award international and public tenders.

Efficient Capital Markets and Portfolio Investment Return to top

Foreign investors can access credit on the same market terms as nationals. Long-term banking credit has traditionally been difficult to obtain.

Uruguay's capital market is underdeveloped and concentrated in public paper. While Uruguay is receiving “active” investments oriented to establishing new firms or gaining control over existent ones, it is missing out on major “passive” investments that are an essential source of start-up capital and of liquidity for new ventures and companies wishing to expand operations.

There is no effective regulatory system to encourage and facilitate portfolio investment. There are two stock exchanges. An electronic exchange concentrates on foreign currency transactions and a traditional exchange focuses on sovereign bonds. Only 12 firms are registered in the traditional stock exchange, and trading with shares and commercial paper is virtually nil. There are only four investment funds that mostly service domestic clients and invest their funds in Uruguayan public paper. Risk rating firms first came to Uruguay in 1998.

Private firms do not use "cross shareholding" or "stable shareholder" arrangements to restrict foreign investment. Nor do they restrict participation in or control of domestic enterprises.

Political Violence

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Uruguay is a stable democracy in which respect for the rule of law is the norm and the vast majority of the population is committed to non-violence.

Corruption

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Uruguay has strong laws to prevent bribery and other corrupt practices. In 2007, Uruguay ranked 25th in Transparency International's Corruption Perception Index, and was second only to Chile in Latin America (the U.S. was ranked 20th.) A law against corruption in the public sector was approved in 1998, and acceptance of a bribe is a felony under Uruguay's penal code. Money laundering is penalized with sentences of up to ten years (which also apply to Uruguayans living abroad). Despite Uruguay's favorable rating and effective legislation, public surveys indicate a widespread perception of public sector corruption. Several former Uruguayan officials and one judge were prosecuted in recent years. Overall, U.S. firms have not identified corruption as an obstacle to investment.

Bilateral Investment Agreements

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In November 2005, Uruguay and the United States signed a Bilateral Investment Treaty (BIT), which was subsequently ratified by both legislatures and entered into force on November 1, 2006. Uruguay also has BITs with Australia, Belgium, Canada, Chile, China, Czech Republic, Finland, El Salvador, France, Germany, Great Britain, Hungary, Israel, Italy, Luxembourg, Malaysia, Mexico, Portugal, The Netherlands, Panama, Poland, Romania, Spain, Sweden, Switzerland, and Venezuela. A BIT with Armenia is pending ratification as of December 2007.

The Ministry of Foreign Affairs indicates that Uruguay has Double Taxation Agreements with Argentina, Chile, Germany, Hungary, Israel, Norway, Panama, Paraguay and Switzerland. However, several of these agreements deal with air transportation.

OPIC and Other Investment Insurance Programs

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The GOU signed an investment insurance agreement with the Overseas Private Investment Corporation (OPIC) in December 1982. The agreement allows OPIC to insure U.S. investments against risks resulting from expropriation, inconvertibility, war or other conflicts affecting public order. OPIC programs are currently used in Uruguay.

In 2002, after three years of recession and in the face of devaluations in neighboring economies, Uruguay eliminated its decade-long exchange rate bands and allowed the peso to float freely, albeit with some intervention from the Central Bank. There is no black market for currency exchange and the U.S. Embassy uses the official rate when purchasing local currency.

Labor

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The Uruguayan labor force is well educated and the government has instituted technical training programs to help meet industry's skilled labor requirements. At 97%, Uruguay's literacy rate is the highest in Latin America and on par with that of the United States.

Social security payments are high and increase employers' basic wage costs by almost 50%. A law approved in May 1998 provides incentives for companies that hire young people, including a reduction of between 12-18% in employer social security and healthcare contributions. The social security system currently allows for retirement at age 60 for both men and women. Workers who become disabled on the job receive a monthly payment from the government equal to 70% of their salaries plus free medicine and medical care. The government provides six months of unemployment benefits.

Uruguay has ratified ILO conventions that protect worker rights, and generally adheres to their provisions. The Uruguayan constitution guarantees workers the right to organize and strike, and union members are protected by law against dismissal for union activities. Labor unions are nominally independent from the Government. They tend, however, to carry a strong leftist discourse and to opine on many issues that are not directly labor-related. Sympathy strikes are legal.

In January 2006, the Frente Amplio administration passed a law on the "Promotion and Protection of Labor Unions" that renders illegal any discriminatory action affecting the employment of unionized workers. Among other measures the law provides for the immediate reinstatement of the employee if any infringement of the law is proven. Business chambers strongly opposed the bill, arguing that it slants labor relations too heavily in favor of unions.

The level of unionization has increased steadily since the governing Frente Amplio Party took office on March 1, 2005. In October of 2006, the umbrella labor organization PIT/CNT held its National Congress, at which union leaders stated that 300 new unions had joined the organization since 2003. The PIT/CNT states it has approximately 200,000 active members.

The Frente Amplio administration also set up Salary Councils, something unseen since 1990 when the government stopped partaking as third party in labor relations with workers and businesses. The government now determines the wage increase to be applied for sectors that fail to reach agreement.

In 2005, the GOU derogated a 1966 decree that enabled employers to request police action to evict occupying workers and, in May 2006, passed a decree providing for obligatory negotiations between employer and employees prior to employees resorting to occupation of the workplace. In practice, however, occupations have been early measures in several labor conflicts. Occupations surged in early 2006 but declined significantly in 2007, as the GOU implemented regulations to restrain excesses and the courts ruled to evict occupying workers in several instances.

In January 2007, the GOU passed a law on outsourcing (No. 18099), which was adamantly opposed by the business community, as it made contracting firms responsible for possible labor infringements by the contracted firms. In response to these concerns, the GOU submitted in November 2007 a bill on outsourcing that would modify some aspects of the law. As of December 2007 the bill stands before Parliament, along with a law on Collective Bargaining.

Foreign-Trade Zones/Free Ports

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Free trade zones permit all types of commercial, industrial, and service activities. These activities are considered to take place outside of the national territory. When goods from a free trade zone are introduced into the rest of the country, they are treated as "imports."

Law No.15921 of December 17, 1987 regulates the operation of FTZs within the country. The law allows storage and warehousing, manufacturing, and financial and data processing, and related activities to take place within FTZs. Ten FTZs are located throughout the country (one public, one mixed ownership, and eight private). Little manufacturing is done in FTZs since MERCOSUR regulations treat products manufactured in all member state FTZs as extra-territorial and hence charge them its common external tariff. Products manufactured by Uruguayan or foreign firms in Uruguayan FTZs are not eligible for MERCOSUR certificates of origin. Furthermore, these products do not benefit from MERCOSUR customs union advantages and must pay the MERCOSUR common external tariff when entering member countries.

Goods, services, products and raw materials of foreign and Uruguayan origin may be brought into the zones, held, processed, and re-exported without payment of Uruguayan customs duties or import taxes. Goods of Uruguayan origin entering into FTZs are treated as Uruguayan exports for tax and other legal purposes. Goods that enter Uruguayan customs territory from FTZs are subject to customs duties and import taxes. Industrial or commercial government monopolies are not honored within FTZs.

Local and foreign-owned industries alike enjoy several advantages in an FTZ. They are exempt from all domestic taxes, with exemptions granted exclusively to free trade zone tenants with approved contracts from the General Trade Authority. Customs duty exemptions are applicable to the entry and exit of goods. The only additional cost to employers is the contribution to social security for Uruguayan employees. The employer does not pay social security taxes for non-Uruguayan employees if those employees waive coverage under the Uruguayan social security system. However, Uruguayans must comprise 75% of a company's labor force to qualify for FTZ tenancy.

Foreign Direct Investment Statistics

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Foreign Direct Investment (FDI) in Uruguay has been traditionally low, even by Latin American and regional standards, because of the country's small market, the lack of major privatizations, and the small number of firms that base their MERCOSUR-wide operations locally. However, FDI has risen significantly recently to 4.3% of GDP in 2005. According to the Central Bank, surging inflows of FDI have led the stock of FDI to above its pre-crisis levels ($4.2 billion in 2006). Annual inflows of FDI rose from $397 million in 2004 to $847 million in 2005, and to $1.4 billion in 2006, in face of booming real estate, major land purchases and a massive investment by Finnish cellulose producer Botnia.

According to the Central Bank major investors in 2005 were Spain and Argentina, with 24% and 13% of FDI respectively. The U.S. was the third largest investor with $35 million or 4.2% of total FDI. According to the U.S. Department of Commerce, the 2005 stock of U.S. direct investment in Uruguay amounted to $599 million.

Most foreign investment in recent years has gone into agriculture-related activities (forestry, land purchases, and slaughter-houses), construction (real estate in Punta del Este, hotels and office buildings), and services.

Botnia's construction of a $ 1.2 billion pulp mill in 2005-2007 was Uruguay's largest-ever foreign investment. Another cellulose producer, Spanish firm Ence, plans to build a pulp mill worth $ 1.0 billion over the next 2-3 years. A harsh dispute between Argentina and Uruguay over these pulp mills investments led to a significant deterioration of relations between the two countries.

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Web Resources

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Ministry of Economy and Finance –
Free Trade Zones: http://www.mef.gub.uy/zonasfrancas/portada.htm
Regulations:
http://www.mef.gub.uy/zonasfrancas/normativa/decretos/decreto454-988.pdf